

UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF NEW YORK

VERIZON SERVICES CORP., on behalf of the  
Verizon operating companies, specifically Verizon  
Virginia Inc., Verizon Maryland Inc., and Verizon  
Washington, DC Inc.

*Movant,*

and

LIGHTWAVE COMMUNICATIONS, LLC,

*Respondent.*

NOTICE OF MOTION TO DISMISS

Civil Action No. 07civ6519

The Hon. Jed S. Rakoff

PLEASE TAKE NOTICE that upon the attached Memorandum of Law, Petitioner Verizon Services Corp. ("Verizon"), by its attorney, Andrew G. McBride, Esq., hereby moves this Court to dismiss the above-captioned action for lack of subject matter jurisdiction pursuant to Fed. R. Civ. P. 12(b)(1) or, in the alternative, to exercise its discretion to dismiss this action under the abstention doctrine set out in *Colorado River Water Conservation District v. United States*, 424 U.S. 800 (1976), and any and all other additional relief that the Court deems just and proper. The Court has set the following briefing schedule: (1) Verizon to file and serve copies of its Motion to Dismiss on or before August 2, 2007; (2) Lightwave to file and serve copies of its response on or before August 16, 2007; (3) Verizon to file and serve its reply on or before August 23, 2007. The Court has set a hearing date and time of August 30, 2007 at 2:00 PM.

No prior request for this relief has been made with the Court.

Respectfully submitted,

by: /s/ Andrew G. McBride  
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Dated this 2nd day of August, 2007